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09/682,602	09/26/2001	John Eric Hershey	RD-27364	7827

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EXAMINER

KARMIS, STEFANOS

ART UNIT	PAPER NUMBER
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3693

NOTIFICATION DATE	DELIVERY MODE
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08/07/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 09/682,602	Applicant(s) HERSHEY, JOHN ERIC	
	Examiner STEFANOS KARMIS	Art Unit 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following communication is in response to Applicant's amendment filed 17 April 2008.

Status of Claims

2. Claims 1, 20, 24 and 45 are currently amended. Claims 1-48 are currently pending.

Response to Arguments

3. Applicant's arguments with respect to the rejection of claims 1-48 under Tealdi have been considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made as discussed below.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-10 and 14-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 1 recites in the preamble "an apparatus for securing financing and managing repayment of a loan, the apparatus comprising." The body of claim 1 recites various "modules" in each limitation, including "loan request input module," "credit evaluation module," "financing solicitation module," etc. Claim 1 is considered non-statutory because the modules are

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considered to be software, per se. Functional Descriptive material per se is not statutory. Claim 1 does recite a processor connected to the loan request input module for processing the request of the loan, but this is a single means. To overcome the rejection, the Examiner suggests amending claim 1 to include the hardware components of the system, similar to those discussed in claims 11-13. Also, since the “modules” lack storage on a medium and there are no instructions in executable form, no underlying functionality occurs and thus there is no practical application. Examiner suggests amending claim 1 to clarify that the modules are stored on a medium as well as provide for claiming the software in executable form. For these reasons, claim 1 fails to satisfy one of the statutory categories set forth in 35 U.S.C. 101 and is therefore considered to be non-statutory. Claim 20 is rejected under similar reasoning. Claims 2-10, 14-19 and 21-23 are rejected under similar reasoning and their dependency.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-10 and 14-23 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites in the preamble “an apparatus for securing financing and managing repayment of a loan, the apparatus comprising.” The body of claim 1 recites various “modules” in each limitation, including “loan request input module,” “credit evaluation module,” “financing solicitation module,” etc. Claim 1 is considered indefinite because the modules are considered to

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be software, per se. Functional Descriptive material per se is not statutory. Claim 1 does recite a processor connected to the loan request input module for processing the request of the loan, but this is a single means. The processor is not sufficient to describe the apparatus and therefore the claim is considered indefinite for failing to particularly point out and distinctly claim Applicant's invention. To overcome the rejection, the Examiner suggests amending claim 1 as discussed above. Claim 20 is rejected under similar reasoning. Claims 2-10, 14-19 and 21-23 are rejected under similar reasoning and their dependency.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-4, 6-11, 13-27, 29-34, 36-41 and 43-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levine et al. (hereinafter Levine) U.S. Patent 6,233,566 in view of Shirakawa U.S. Publication No. 2001/0020233 in further view of Tenenbaum U.S. Publication 2001/0027436.

Regarding independent claims 1, Levine teaches an apparatus for securing financing and managing repayment of a loan, the apparatus comprising:

a loan request input module for receiving a request for the loan from a borrower (column 11, lines 26-50);

a processor connected to the loan request input module for processing the request for the loan (column 11, lines 26-50);

a credit evaluation module connected to the processor for determining a credit evaluation of the borrower based on the request for the loan (column 11, lines 51-54);

a loan determination module connected to the processor and receiving at least the credit evaluation, the loan determination module determining at least a first status of the loan based on predetermined criteria wherein terms of the loan are provided to the borrower when the first status has been determined (column 14, lines 36-41);

a financing solicitation module connected to the processor for soliciting financing for the loan from investors when the first status of the loan has been determined (column 15, lines 53-67); and

a repayment module connected to the processor for servicing and managing repayment of the loan by the borrower (column 24, line 58 thru column 25, line 24).

Levine teaches that the exchange system can sell individual loans or loan pools (column 21, lines 24-33). Levine fails to teach a financing solicitation module connected to the processor for soliciting one financing entity to purchase at least one of a plurality of subscriptions for the loan, including at least one public subscription, each of said subscriptions having a predetermined monetary amount being a portion of the loan wherein the total of subscriptions equals the loan and wherein the loan is executed after each of said subscriptions for said loan is purchased.

Shirakawa teaches an auction system for directly connecting a person who wants to obtain a loan and a person who offers financing/investment (paragraph 0028). They system

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collects information on the potential borrower including information from credit investigation or rating companies (paragraph 0052). The loan is executed after the total desired amount is achieved (paragraph 0070). Shirakawa teaches an example in which one borrower has an individual loan fulfilled by three different lenders using parameters such as interest rate and total amount to be borrowed (paragraphs 0073-0080; Table 1 and Table 2; Examiner notes that three subscriptions include, one for B1, one for B2 and one for B3). Shirakawa also teaches a repayment amount totaling means (paragraphs 0111-0112). Shirakawa fails to teach that the subscriptions are predefined and that one is offered to the public.

Tenembaum teaches an on-line market environment in which borrowers present their credit needs in an auction to lenders (Abstract). Tenembaum also teaches providing credit information about the borrower and detailing loan information such as the amount and maximum interest rate (paragraphs 0170, 0177, 0182, 0199). Tenembaum further teaches that the auction can be designed in various ways, including as a split auction, in which the loan amount to be auctioned is divided in pre-defined lots by the Borrower upon insertion and if the total is not met, then the Auction is cancelled (paragraph 0204). Tenembaum further teaches that the lenders can be public and thus have public subscriptions (paragraph 0088-0093; specifically paragraph 0090-0091).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Levine to teach securing financing for a loan through subscriptions as taught by Shirakawa and the teachings of predefining the subscriptions as taught by Tenembaum because it provides for processing of larger loans while minimizing the financial burden and risk on the mortgage bank by spreading the burden/risk to a plurality of

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lenders. It also allows for more lenders to participate in a transaction by allowing them to be part of a loan that they otherwise not be able to afford, thus bringing more borrowers and lenders together.

Independent claims 20, 24 and 45 contain similar amendments to claim 1 and are therefore rejected under the same reasoning.

Claims 2, 8, 14, 16, 18, 22, 25, 32, 40 and 43 wherein the input module comprises an electronic channel connected to a wide area network (WAN) (column 9, lines 62 thru column 10, line 8).

Claims 3, 9, 15, 17, 19, 23, 26, 33, 41 and 44 wherein the wide area network (WAN) comprises the Internet (column 10, lines 8-21).

Claims 4, 10, 27 and 34, wherein the input module comprises an electronic channel connected to a public switched telephone network (column 11, lines 26-50).

Claim 6 and 29, wherein the loan request input module comprises an electronic channel connected to a voice synthesizer unit and a speech recognition system (column 14, lines 42-53).

Claim 7 and 30, wherein the loan request input module comprises an electronic channel connected to a dual tone multi-frequency telephone network (column 11, lines 26-50).

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Claim 11, wherein the processor is connected to at least one monitor (column 18, lines 52-67).

Claim 13, wherein the processor further comprises at least one data entry terminal (Figure 2A and 2B).

Claim 21, further comprising a repayment module connected to the processor for servicing and managing repayment of the loan by the borrower (column 24, line 58 thru column 25, line 24).

Claim 31, wherein the step of obtaining the credit evaluation of the borrower comprises obtaining the credit evaluation of the borrower using a credit evaluation module (column 19, lines 37-57).

Claim 36, wherein the step of assigning the risk level to the borrower comprises determining the risk level according to at least one pre-stored risk table (column 19, lines 37-57 and column 25, line 55 thru column 26, line 18).

Claim 37, wherein the step of assigning the risk level to the borrower comprises determining the risk level according to predetermined criteria (column 19, lines 37-57 and column 25, line 55 thru column 26, line 18).

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Claim 38, wherein the step of providing the terms of the loan to the borrower comprises determining the terms of the loan according to at least one pre-stored loan repayment schedule (column 24, lines 58 thru column 25, line 8).

Claim 39, wherein the step of providing the terms of the loan to the borrower comprises determining the terms of the loan according to predetermined criteria (column 14, lines 36-41).

Claim 46, wherein the wide area network (WAN) comprises the Internet (column 10, lines 8-21).

Claim 47, further comprising the step of managing repayment of the loan via the wide area network (WAN) (column 24, line 58 thru column 25, line 24).

Claim 48, wherein the wide area network (WAN) comprises the Internet (column 10, lines 8-21).

10. Claims 5, 12, 28, 35 and 42 rejected under 35 U.S.C. 103(a) as being unpatentable over Levine et al. (hereinafter Levine) U.S. Patent 6,233,566 in view of Shirakawa U.S. Publication No. 2001/0020233 in further view of Tenembaum U.S. Publication 2001/0027436 in further view of Official Notice.

Claims 5, 28 and 35, Levine teaches the use of telephone networks for communication (column 11, lines 26-50). Levine also teaches registering fax numbers (column 21, lines 41-57). Levine fails to specifically teach that the electronic channel is connected to a facsimile machine, wherein the facsimile machine is connected to a public switched telephone network. Official Notice is taken that connecting facsimile machines for communication in a network is old and well known in the financial arts. Therefore it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Levine and include facsimile machine connected to the network because Levine teaches the use of phone networks and registering fax numbers, which would be required for the communication.

Claim 12, Levine fails to teach that the processor is connected to at least one printer. Official Notice is taken that printers connected to a network are old and well known in the financial arts. It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Levine and include connecting a printer because it allows to take the loan information from the GUI and print it out as a hardcopy.

Claim 42, Levine fails to teach the step of executing using an electronic signature of the borrower. Official Notice is taken that electronic signatures are old and well known in the financial arts. Therefore it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Levine and include electronic

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signatures because it provides for authentication of the customers in a network environment such as that taught by Levine.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEFANOS KARMIS whose telephone number is (571)272-6744. The examiner can normally be reached on M-F: 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Respectfully Submitted
/Stefanos Karmis/
Primary Examiner, Art Unit 3693
01 August 2008